

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF  
PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 73-2,  
PALM BEACH COUNTY ZONING CODE, TO ESTABLISH A SECTION  
1 AUTHORIZING THE TRANSFER OF DEVELOPMENT RIGHTS FROM  
2 ONE PARCEL OF LAND TO ANOTHER; PROVIDING FOR: INTENT;  
3 DEFINITIONS; TRANSFER OF DEVELOPMENT RIGHTS; DEVELOPMENT  
4 RIGHTS, SENDING AREA, RIGHTS CONVEYED, AND LIMITATION OF  
5 RIGHTS TRANSFERRED; SENDING AREA MINIMUM SIZE, TOTAL  
6 TRANSFER; RESIDUAL RIGHTS; LIMITATIONS ON THE USE OF  
TRANSFERRED DEVELOPMENT RIGHTS; TRANSFERRED DEVELOPMENT  
RIGHTS BONUS MAXIMUMS; REASSIGNMENT OF TRANSFERRED  
DEVELOPMENT RIGHTS; RECOGNITION OF TRANSFERRED  
DEVELOPMENT RIGHTS; REPEAL OF LAWS IN CONFLICT;  
SEVERABILITY; INCLUSION IN CODE; AND EFFECTIVE DATE.

7 WHEREAS, the Local Government Comprehensive Planning Act of  
8 1975, as amended, Section 163.3161 et. seq., Florida Statutes, requires  
9 each local government to adopt a Comprehensive Plan to guide and manage  
10 future development; and

11 WHEREAS, the Board of County Commissioners of Palm Beach County,  
12 pursuant to said Act, adopted Ordinance No. 80-8, establishing a Comprehensive  
13 Plan for Palm Beach County; and

14 WHEREAS, the Palm Beach County Comprehensive Plan contains a  
15 section entitled "Transfer of Development Rights," which provides for removal  
16 of development rights from certain lands designated for agricultural use or  
17 lands which have physical characteristics which should be conserved or  
18 preserved and transfer of those development rights to other lands which have  
19 been designated in the Comprehensive Plan as within the Urban Service Area  
20 of the County; and

21 WHEREAS, the Board of County Commissioners of Palm Beach County  
22 now finds and determines that it is in the public's best interest to establish  
23 a mechanism and procedure for the transfer of Development Rights.

24 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
25 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:

26 SECTION I.

27 Section 500.34 of the Palm Beach County Zoning Code, Ordinance  
28 No. 73-2, as amended, is hereby created to read;

29 500.34 Transfer of Development Rights.

30 It is the intent of this Section to establish the mechanism and  
31 criteria for the Transfer of Development Rights consistent with standards  
32 contained within Ordinance No. 80-8, which adopted the Palm Beach County  
33 Comprehensive Plan.

34 A. DEFINITIONS.

35 1. Development Rights. The ability to utilize a particular

1       property under the Palm Beach County Comprehensive Plan, the Zoning Code and  
2       all other applicable development ordinances, rules and regulations other than  
3       those uses, improvements or development allowable within the "Agricultural  
4       Preservation" District, as such district exists at the time of transfer.

5           2. Reserve Area. That portion of the unincorporated area of  
6       Palm Beach County designated as "Reserve Area" by the Palm Beach County  
7       Comprehensive Plan Ordinance No. 80-8, as amended from time to time.

8           3. Conservation Area. That portion of the unincorporated  
9       area of Palm Beach County designated as "Conservation Area" by the Palm Beach  
10      County Comprehensive Plan Ordinance No. 80-8, as amended from time to time.

11          4. Urban Service Area. That portion of the unincorporated  
12       area of Palm Beach County designated as the "Urban Service Area" by the Palm  
13       Beach County Comprehensive Plan, Ordinance No. 80-8, as amended, as such area  
14       may change from time to time, pursuant to the procedures set forth within  
15       said plan.

16          5. Dwelling Unit. A house, apartment, or building unit  
17       used for human habitation designed for and limited to the use of a single  
18       family.

19           B. TRANSFER OF DEVELOPMENT RIGHTS.

20           Development Rights existing on property located within  
21       sending areas, as defined in Subsection D herein, may be transferred pursuant  
22       to the procedure contained in this Section to property, qualified to receive  
23       such density according to standards contained in the Palm Beach County  
24       Comprehensive Plan, in the unincorporated portion of the County within the  
25       Urban Service Area.

26           C. DEVELOPMENT RIGHTS, SENDING AREAS, RIGHTS CONVEYED, AND  
27           LIMITATION OF RIGHTS TRANSFERRED.

28          1. Sending Areas. Development Rights may be transferred  
29       only from property within the unincorporated portion of Palm Beach County  
30       that is within a "Reserve Area" or "Conservation Area."

31          2. Development Rights may be transferred according to the  
32       following schedule:

33           a) Development Rights may be transferred from property  
34       in the "Reserve Area" at the rate of four dwelling units for each five acres  
35       (4du/5ac) of sending property.

36           b) Development Rights may be transferred from property in

1       the "Conservation Area" at the rate of one dwelling unit for each five acres  
2       (1du/5ac) of sending property.

3           3. The Development Rights transferrable pursuant to this  
4       Section shall be limited to the transfer of density for dwelling units as  
5       enumerated in Section 2 a and b, and the transferee shall not be entitled  
6       to any other rights whatsoever.

7           D. SENDING AREA MINIMUM SIZE, TOTAL TRANSFER.

8           To qualify for the benefits of this Ordinance and to be  
9       eligible to transfer any Development Rights, the sending property must be at  
10      least five acres in size. The transfer of any Development Rights from any  
11      given parcel shall be conclusively deemed a total transfer of all allowable  
12      transferable Development Rights for that parcel pursuant to this Section.

13           E. RESIDUAL RIGHTS.

14           Any parcel from which Development Rights have been trans-  
15      ferred, shall have residual rights consisting of the uses permitted in the  
16      "Agricultural Preservation" District as specified in the Palm Beach County  
17      Zoning Code Ordinance No. 73-2, as amended from time to time.

18           F. LIMITATIONS ON THE USE OF TRANSFERRED DEVELOPMENT RIGHTS.

19           Transfer of Development Rights are subject to the following  
20      limitations:

21           1. The receiving property must be within a Planned Unit  
22      Development, within the Urban Service Area of the unincorporated portion of  
23      Palm Beach County. The use of the transferred rights must be approved as a  
24      bonus density as part of the Special Exception application for the Planned  
25      Unit Development. This approval shall be subject to the bonus maximum set  
26      forth in Section G herein.

27           2. Transfer of Development Rights may only be used as bonuses  
28      within Planned Unit Developments that, with the additional density, will fully  
29      comply with all the performance standards as set forth in the Palm Beach  
30      County Comprehensive Plan, as amended from time to time.

31           3. The use of Transfer Development Rights must be in full  
32      compliance with the provisions of the Palm Beach County Zoning Code Ordinance  
33      No. 73-2, as amended from time to time.

34           4. The Transfer of Development Rights shall be accomplished  
35      by recording an instrument of conveyance in a form acceptable to the Palm

1 Beach County Attorney. This instrument shall describe both the sending and  
2 the receiving property and shall be recorded in the Official Records of  
3 Palm Beach County, Florida.

4               5. The Transfer of Development Rights from a sending property  
5 shall forever restrict the use of that property to those uses allowable in  
6 the Agricultural Preservation District and no other use of whatever kind or  
7 nature shall be permitted, constructed or suffered upon said sending property.  
8 This restriction shall constitute a covenant running with the land and shall  
9 be binding upon descendants, heirs and assigns.

10               G. TRANSFERRED DEVELOPMENT RIGHTS BONUS MAXIMUMS.

11               Development Rights transferred in accordance with this  
12 Ordinance, may be used in receiving areas at the maximum rates listed below,  
13 and shall be used as bonuses in addition to the Planned Unit Development  
14 bonuses authorized as part of the Zoning approval.

15               1. Transfer Development Rights bonuses shall not be permitted  
16 in any Agricultural Preservation (AP), Agricultural Residential (AR),  
17 Residential Estate (RE), Residential Transition (RT), or Residential  
18 Transition Single Family (RTS).

19               2. In (RS) Residential Single Family Zones, the maximum  
20 Transferred Development Rights bonus permitted shall be three dwelling units  
21 per acre (3.0du/ac).

22               3. In (RM) Residential Medium Density Zones, the maximum  
23 Transferred Development Rights bonus permitted shall be four dwelling units  
24 per acre (4du/ac).

25               4. In (RH) Residential High Density Zones, the maximum  
26 Transferred Development Rights bonus permitted shall be six dwelling units  
27 per acre (6 du/ac).

28               H. REASSIGNMENT OF TRANSFERRED DEVELOPMENT RIGHTS.

29               Where Development Rights have been transferred to a Planned  
30 Unit Development within the Urban Service Area in accordance with the  
31 requirements of this Ordinance, and where those rights have not been  
32 utilized by the grantee of those rights, the Development Rights  
33 originally transferred may be reconveyed to another receiving property within  
34 the Urban Service Area provided that all conditions required by this  
35 Ordinance are met.

1           I. RECOGNITION OF TRANSFERRED DEVELOPMENT RIGHTS.

2           Transfer of Development Rights shall be recognized by the  
3         County, and may be applied as bonuses in accordance with this Section when  
4         an approved instrument of conveyance has been recorded in the Office of the  
5         Clerk of the Circuit Court as provided by law.

6           SECTION 2. REPEAL OF LAWS IN CONFLICT.

7           All Laws and Ordinances of Palm Beach County in conflict with  
8         any provisions of this Ordinance are hereby repealed to the extent of such  
9         conflict only.

10           SECTION 3. SEVERABILITY.

11           Should any section, paragraph, sentence, clause or word of  
12         this Ordinance be held unconstitutional, inoperative or void, such holding  
13         shall not affect the validity of the remainder of this Ordinance.

14           SECTION 4. INCLUSION IN CODE.

15           The provisions of this Ordinance shall become and be made a  
16         part of the Code of Laws and Ordinances of Palm Beach County, Florida, and  
17         the various sections may be retitled, renumbered or relettered to  
18         accomplish said inclusion.

19           SECTION 5. EFFECTIVE DATE.

20           The provisions of this Ordinance shall become effective upon  
21         receipt of acknowledgement of the Secretary of State, State of Florida.

22           APPROVED AND ADOPTED by the Board of County Commissioners of  
23         Palm Beach County, Florida, on this 10th day of NOVEMBER, 1981.

24           PALM BEACH COUNTY, FLORIDA, BY ITS  
25         BOARD OF COUNTY COMMISSIONERS

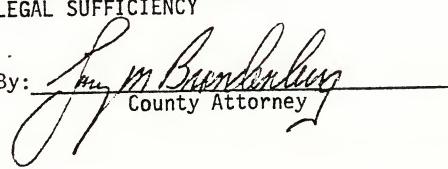
26           By:   
Chairman

27           Acknowledgement by the Department of State of the State of  
28         Florida, this 19th day of November, 1981, at \_\_\_\_ M., and filed  
29         in the Office of the Clerk of the Board of County Commissioners of Palm  
30         Beach County, Florida.

31           EFFECTIVE DATE: November 23, 1981

32           1:44 P.M.

33           APPROVED AS TO FORM AND  
34         LEGAL SUFFICIENCY

35           By:   
County Attorney